

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,
Plaintiff

v.

ESTATE OF DAVID W. ST. GERMAIN, JR. and
ZENECA INC.,
Defendants.

Civil Action No. _____

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Regional Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C § 9607, as amended ("CERCLA"), for recovery of certain response costs incurred in connection with St. Germain Drum Site ("St. Germain Site"), the Oak Street Drum Disposal Area Site ("Oak Street Site"), and the Route 44 Disposal Area Site ("Rt. 44 Site") (collectively, "the Sites").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and over the parties under 28 U.S.C. §§ 1331 and 1345 and Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607 and 9613(b).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), because the actual or threatened releases of hazardous substances, pollutants, or contaminants that gave rise to these claims occurred in this district, and because the three Sites are located in this district.

DEFENDANTS

4. The Defendants, Estate of David W. St. Germain and Zeneca Inc., are “persons” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. Defendant Estate of David W. St. Germain (“Estate”), is the current owner of the St. Germain Site.

6. Defendant Zeneca Inc., formerly ICI Americas, Inc. (“Zeneca”), is a Delaware corporation with its principal place of business in Wilmington, Delaware.

THE SITES

The St. Germain Site

7. The St. Germain Site is located at 340-350 Winthrop Street, Taunton, Bristol County, Massachusetts. David W. St. Germain, Jr. owned the St. Germain Site from September 6, 1977, until his death on March 7, 1997. The St. Germain Site is currently owned by the Estate.

8. David W. St. Germain Jr. operated St. Germain and Son, a waste hauling business, at the Site from the 1950's to the 1970's, and disposed of hazardous substances at the St. Germain Site during that period.

9. Drums containing hazardous substances, including those generated by Defendant Zeneca, were disposed of at the St. Germain Site.

10. EPA conducted a preliminary assessment/site investigation (“PA/SI”) consisting

of soil sampling and air monitoring at the St. Germain Site on October 16, 1997.

11. Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including toluene, acetone, chlorobenzene, naphthalene and 1,2,4-trichlorobenzene were found in soils at the St. Germain Site.

12. EPA began excavation of drums at the St. Germain Site on December 20, 1999. EPA has incurred unreimbursed response costs of at least \$ 1,089,485.85, including interest, at the St. Germain Site.

The Oak Street Site

13. The Oak Street Site is located at 2 Woodbine Street, Taunton, Bristol County, Massachusetts.

14. David W. St. Germain and St. Germain and Son disposed of hazardous substances, including drums containing hazardous substances generated by Zeneca, at the Oak Street Site.

15. EPA conducted a PA/SI at the Oak Street Site from November 2001 through January 2002. Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), including toluene and trichloroethylene, were found in soils at the Oak Street Site.

16. EPA began on-site activities in response to the release or threat of release of hazardous substances at the Oak Street Site on June 12, 2002. EPA has incurred unreimbursed response costs of at least \$ 736,728.68, including interest, at the Oak Street Site.

The Route 44 Site

17. The Route 44 Site is located at 354-356 Winthrop St. in Taunton, Bristol County, Massachusetts.

18. David W. St. Germain and St. Germain and Son disposed of hazardous substances, including drums containing hazardous substances generated by Zeneca, at the Route 44 Site.

19. A PA/SI was conducted at the Route 44 Site on July 9, 2000. The PA/SI confirmed the presence of deteriorated drums, and sampling indicated that hazardous substances, including toluene, trichloroethylene, and 1,2,4-trichlorobenzene, were present in the soils.

20. EPA began on-site activities in response to the release or threat of release of hazardous substances at the Route 44 Site on September 25, 2000. EPA incurred unreimbursed response costs of at least \$ 1,590,532.79, including interest, at the Route 44 Site.

CLAIM FOR RELIEF (RESPONSE COSTS)

21. Paragraphs 1-20, above, are realleged and incorporated herein by reference.

22. “Hazardous substances,” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), were “disposed” of at the St. Germain Site, the Oak Street Site, and the Route 44 Site (collectively, the “Sites”), within the meaning of Section 101(29) of CERCLA, 42 U.S.C. § 9601(29).

23. The Sites are all “facilities” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601 (9).

24. Defendant Estate of David W. St. Germain, Jr. is a liable party at the St. Germain Site within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607 (a)(1), because David W. St. Germain, Jr. was the owner and operator of that Site.

25. Defendant Estate of David W. St. Germain, Jr. is a liable party at the Sites within the meaning of Section 107(a)(4), 42 U.S.C. § 9607(a)(4), because David W. St. Germain, Jr.

transported hazardous substances to all the Sites.

26. Defendant Zeneca Inc. is a liable party at the Sites within the meaning of Section 107(a)(3), 42 U.S.C. § 9607(a)(3), because it arranged for the disposal of hazardous substances it generated at all the Sites.

27. At all times relevant to this action, there was a release or threatened release of hazardous substances into the environment at the Sites, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

28. The release or threatened release of hazardous substances at the Sites caused the United States to incur response costs, as defined in Sections 101(23), 101(24) and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23), 9601(24) and 9601 (25). None of the response costs have been reimbursed. All of the unreimbursed response costs are authorized by Section 104 of CERCLA, 42 U.S.C. § 9604.

29. The costs incurred by the United States in conducting the response actions at the Sites were incurred in a manner not inconsistent with the National Contingency Plan, promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and codified at 40 C.F.R. Part 300.

30. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Defendants are jointly and severally liable to the United States for all unreimbursed response costs incurred by the United States at the Sites.

31. Each of the Defendants is also liable to the United States for interest on these costs, pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), and for the expenses the United States incurs in seeking to recover these costs, pursuant to CERCLA Section 101(25), 42 U.S.C.

§ 9601(25).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

- a. Order the Defendants, jointly and severally, to pay all unreimbursed response costs that have been incurred, or will be incurred by the United States in connection with the Sites, plus enforcement costs and interest:
- b. Award the United States the costs of this action; and
- c. Grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

Dated: 1/30/07

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Complaint was served on the parties set forth below via first class mail:

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Date: 1/31/07

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